

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE

UNITED STATES OF AMERICA )  
                                )  
V.                             )         No. 2:09-CR-05  
                                   )  
LYNCE P. FOSTER             )

**REPORT AND RECOMMENDATION**

The defendant has filed a motion to dismiss the indictment, (Doc. 24), claiming that this prosecution is vindictive. Defendant's motion was referred to the United States Magistrate Judge under the standing orders of this Court and pursuant to 28 U.S.C. § 636(b). A hearing was held on November 18, 2009.

Other than the allegation in the motion itself, nothing was presented to the magistrate judge, either evidence or argument, to remotely suggest that this case is being prosecuted for any improper purpose, including vindictiveness.

It is recommended that defendant's motion to dismiss the indictment (Doc. 24), be denied.<sup>1</sup>

Respectfully submitted,

s/ Dennis H. Inman  
United States Magistrate Judge

---

<sup>1</sup>Any objections to this report and recommendation must be filed within ten (10) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1)(B) and (C). *United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).